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09/703,612	11/02/2000	Angelo Masciantonio	044959-5001	2780

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EXAMINER

DELGADO, MICHAEL A

ART UNIT	PAPER NUMBER
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2144

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/703,612

Applicant(s)

MASCIAntonio ET AL. 

Examiner

Michael S. A. Delgado

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1, 14 and 27 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, and 5-13 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,345,260 by Cummings, Jr. et al.

In Claim 1, Cummings teaches about a system for allowing users to simultaneously contact multiple providers “doctor, dentist, veterinarian” to secure an appointment on short notice, the system comprising (Col 2, lines 4-10):

a facilitator (this function is realized in the combined functions of master schedule, coordination center and tentative appointment storage) that sets up “scheduling”, mediates “assistance”, and monitors communications between the providers and the users and intervenes directly if needed (Col 3, lines 1-67), (Col 11, lines 1-35);

a web application that includes a web site for facilitating interaction with the system (Col 8, lines 1-10);

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a provider network for processing information provided by users of the system (Fig 1);  
and

a storage device for storing information processed by the system "database 16" (Col 8, lines 10-20) (Col 11, lines 10-15).

In Claim 2, Cummings teaches about a system of claim 1, wherein each provider is allowed to view and obtain requests for appointments from new users (Col 8, lines 38-57).

In Claim 3, Cummings teaches about a system of claim 1, wherein users are both members who have previously registered with the system and prospective members "pre-registration" of the system (Col 5, lines 52-56) (Col 8, lines 30-35).

In Claim 5, Cummings teaches about a system of claim 1, wherein the storage device includes a database for storing information and a data server for maintaining the database and information, which is necessary to run the system (Col 8, lines 10-20).

In Claim 6, Cummings teaches about a system of claim 1, wherein the web application includes a web server for converting all hypertext based requests to native commands for processing by components of the storage device and for dynamically generating HTML pages in response to the requests (Col 3, lines 5-10) (Col 9, lines 60-67). (This is covered under the interoperability feature)

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In Claim 7, Cummings teaches about a system of claim 1, wherein the system provides different types of access and privileges to different users based on at least one predetermined criterion (Col 5, line 65-Col 6, line 6). In the health care field, access to all patient records is a privilege that is granted to doctors while a patient is limited to his or her record.

In Claim 8, Cummings teaches about a system of claim 7, wherein users may purchase access to the system through appropriate agents "billing" (Col 4, lines 30-35) (Col 8, lines 30-35).

In Claim 9, Cummings teaches about a system of claim 7, wherein users may purchase access to the system through the web site "web" (Col 8, lines 1-10) (Col 8, lines 30-35).

In Claim 10, Cummings teaches about a system of claim 1, wherein users may access the system through on-line means (Col 8, lines 1-10).

In Claim 11, Cummings teaches about a system of claim 1, wherein users may access the system through off-line means (Col 2, lines 10-20).

In Claim 12, Cummings teaches about a system of claim 1, wherein prior to using the system, providers must register a practice and the individual providers in the practice and the facilitator activates the registration after predefined contract agreements are ratified (Col 2, lines 55-63) (Col 3, lines 9-15).

In Claim 13, Cummings teaches about a system of claim 12, wherein providers may register practices for future “not yet active user” partnerships (Col 2, lines 55-63) (Col 3, lines 9-15).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 14-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,345,260 by Cummings, Jr. et al in view of US Patent No. 6,047,272 by Johnson et al.

In Claim 14, Cummings teaches about a method for enabling a user to simultaneously contact multitude of providers to secure an appointment on short notice, the method comprising the steps of (Col 2, lines 4-10):

entering, by the user, at least one user defined criterion “doctor specialization or geographic” on a system web site (Col 2, lines 55-63) (Col 4, lines 64-67);

determining, by the system, a first plurality of providers within a specified area using the at least one criterion, the at least one criterion being common to the first plurality providers “all the available appointment ” (Col 2, lines 55-63);

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providing, by the system, a list of the first plurality of providers to the user (Col 2, lines 55-63);

selecting, by the user, a second plurality of providers from the list of the first plurality of providers and submitting a list of the second plurality of providers “several suited scheduling” to the system (Col 2, lines 55-63);

generating a notification, by the system, to the second plurality of providers (Col 2, lines 55-63) (Col 8, lines 45-55);

but does not explicitly teach about where a user select one of a plurality of providers response while the providers that are not selected are notified of their not being selected by the user.

This approach is well known in the art and is commonly used in the auction world or in area where more than one provider of a service are bidding to provide service to a user. A user uses this approach to insure that the most suited service will be available for selection. US Patent No. 6,047,272 by Johnson teaches about bidding for energy supply (abstract). Johnson discloses a bidding moderator that allows competitive bidding between service providers.

Johnson teaches about a generating a response “bid” to the notification by each of the second plurality of providers to form a plurality of responses (Col 22, lines 1-10);

displaying (making the user aware of the choice) to the user, by the system, the plurality of responses from each of the second plurality of providers (Col 22, lines 8-15);

generating a confirmation to one of the plurality of responses to secure the appointment (secure the service), by the user, and sending the confirmation to the provider associated with the one of the plurality of responses (Col 22, lines 12-20);

notifying, by the system, to a third plurality of providers for excluding the third plurality of providers from the appointment, the third plurality of providers being providers that did not receive the confirmation by the user(Col 22, lines 12-20). By not being selected by the user, it is inherent that some time later the providers will be aware that they were not selected.

It would have been obvious at the time of the invention for some one of ordinary skill to use a bidding approach in order to be aware of what is available and to make the best choice. When a patient is in need of medical service it is important that the patient be aware of his choice as to time, geographic and availability of medical personnel. By being presented with this information, patients are better able to decide which provider is best for them base on their preferences.

In Claim 15, Cummings combined with Johnson, teaches about a method of claim 14, further comprising the steps of:

entering, by the user, at least one user selected time criterion (Cummings Col 2, lines 5-10);

allowing a provider having at least one available appointment times time to specify the at least one available appointment time in the system (Cummings Col 2, lines 35-40); and

displaying the at least one available appointment times time to the user that meet meets the at least one user selected time criterion when the user visits the web site (Cummings Col 2, lines 55-63).



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In Claim 16, Cummings combined with Johnson, teaches about a method of claim 14, wherein the user has a location and the method further comprises determining for each of the first plurality of providers a proximity relative to the location of the user, wherein determining a proximity includes the step of using a geo-locator tool to determine a longitude and latitude of each first plurality of providers (Col 2, lines 55-63). The longitude and latitude is inherent to the geographic area.

In Claim 17, Cummings combined with Johnson, teaches about a method of claim 14, wherein the step of providing a list of the first plurality of providers comprises the step of providing biographical information “doctor in field of specialization” for each of the first plurality of providers (Cummings Col 2, lines 55-63).

In Claim 18, Cummings combined with Johnson, teaches about a method of claim 14, wherein the step of generating a notification comprises the step of using unique identifiers assigned (this is address) to each of the second plurality of providers to generate the notification for each of the second plurality of providers (Johnson Col 22, lines 1-10) (Covered in claim 14). Every provider has to have its own unique address “identifier” for the selection process to work.

In Claim 19, Cummings combined with Johnson, teaches about a method of claim 14, wherein the step of generating a notification comprises the step of sending an e-mail message to each of the second plurality of providers (Cummings Col 9, lines 50-60).

In Claim 20, Cummings combined with Johnson, teaches about a method of claim 14, wherein the step of generating a notification comprises the step of sending a fax message to each of the second plurality of providers (Cummings Col 5, lines 15-20). Fax falls in the category of telephone base scheduling

In Claim 21, Cummings combined with Johnson, teaches about a method of claim 14, wherein the step of generating a response comprises the step of visiting the web site, entering an authentication code and responding to an appointment request by the user (Cummings Col 10, lines 22-32).

In Claim 22, Cummings combined with Johnson, teaches about a method of claim 14, wherein the step of displaying to the user comprises the steps of collating the plurality of responses by the system and forwarding the collated plurality of responses to the user (Covered in claim 14).

In Claim 23, Cummings combined with Johnson, teaches about a method of claim 14, wherein the step of displaying to the user comprises the steps of collating the plurality of responses by the system and showing the collated plurality of responses to the user when the user logs in to the web site at a later time (Covered in claim 14).

In Claim 24, Cummings combined with Johnson, teaches about a method of claim 14, wherein the step of displaying to the user comprises the step of forwarding e-mail messages with the plurality of responses to the user (Cummings Col 9, lines 45-60).

In Claim 25, Cummings combined with Johnson, teaches about a method of claim 14, wherein the step of generating a confirmation comprises the step of confirming the one of the plurality of responses directly with the provider associated with the one of the plurality of responses (Covered in claim 14).

In Claim 26, Cummings combined with Johnson, teaches about a method of claim 14, wherein the step of generating a confirmation comprises the step of clicking on a button, on the web site, that is associated with the one response (Col 9, lines 45-50) (Covered in claim 14). The act of clicking a button is equivalent to selecting one of the providers.

In Claim 27, Cummings teaches about a method for enabling a facilitator to mediate communication exchanges between users and providers of a system that allows the users to simultaneously contact multiple providers to secure an appointment on short notice, the method comprising the steps of (Col 2, lines 4-10):

allowing the facilitator (this function is realized in the combined functions of master schedule, coordination center and tentative appointment storage) to view exchanges and histories of exchanges between users and providers (Col 3, lines 1-67) (Col 11, lines 15-25) (Col 8, lines 1-10);

contacting the facilitator, by a user, to specify at least one criterion (geographic) for selecting a provider (Col 2, lines 55-63);

determining, by the facilitator, each provider within a specified area that meets the at least one criterion, identifying each provider's proximity to the user's location and providing a list of providers to the user (Col 2, lines 55-63);

selecting by the user, multiple providers from the list and submitting the selected multiple providers to the facilitator (Col 2, lines 55-63);

notifying, by the facilitator, the selected multiple providers (Covered in claim 14);

responding, by the provider, to the notification (Covered in claim 14);

communicating, by the facilitator, the responses to the user (Covered in claim 14);

confirming, by the user, one response with one selected provider (Covered in claim 14);

and

notifying, by the facilitator, those providers whose responses were not accepted by the user (Covered in claim 14)

In Claim 28, Cummings combined with Johnson, teaches about a method of claim 27, wherein the step of responding comprises the step of faxing a response to a facilitator (Cummings Col 9, lines 45-60).

In Claim 29, Cummings combined with Johnson, teaches about a method of claim 27, wherein the step of allowing comprises the steps of checking, by the system, that each request

has been processed within a predefined period of time and issuing a request to a monitoring group if the request has not been processed (Cummings Col 3, lines 35-40).

In Claim 30, Cummings combined with Johnson, teaches about a method of claim 27, wherein the step of issuing comprises the step of intervening to set up the appointment, by the monitoring group, if a provider does not respond to a request from a user within a predefined time (Cummings Col 3, lines 35-40).

In Claim 31, Cummings combined with Johnson, teaches about a system of claim 27, wherein the determining, by the facilitator, each provider includes the criterion being user defined and common to each provider determined (Cummings Col 2, lines 55-63).

In Claim 32, Cummings combined with Johnson, teaches about a system of claim 1, wherein the facilitator intervenes directly by contacting at least one of the providers and users to secure the appointment (Col 3, lines 1-67).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,345,260 by Cummings, Jr. et al in view of "MULTILINGUAL GLOSSARY OF TECHNICAL

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AND POPULAR MEDICAL TERMS IN NINE EUROPEAN LANGUAGES”, Final Report,

Online: <http://allserv.rug.ac.be/~rvdstich/eugloss/information.html> .

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

In Claim 4, Cummings teaches all limitation but does not explicitly system of claim 1, wherein the web site includes a list of common medical terms, phrases and pharmaceuticals that are cross-referenced in multiple languages, thereby enabling communications between users and providers who speak different languages.

The “MULTILINGUAL GLOSSARY OF TECHNICAL AND POPULAR MEDICAL TERMS IN NINE EUROPEAN LANGUAGES”, teaches the above limitation. It would have been obvious at the time of the invention for some one of ordinary skill to combine both inventions to produce a scheduling system that can be used by different medical personals in different languages.

By incorporating the multilingual feature this insure that critical information can be access in the shortest time possible without any regards to the language of origin. It is crucial that information in the medical field is understood as soon as possible. This could be the difference between life and death for a patient.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US patent no. 6,587,838 by Esposito et al. teaches about a method and system for conducting real time electronic commerce

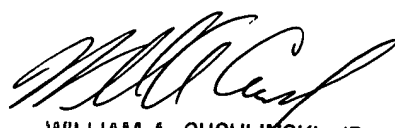
US patent no. 6,526,335 by Treyz et al. teaches about an automobile personal computer system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael S. A. Delgado whose telephone number is 703-305-8057. The examiner can normally be reached on 7.30 AM - 5.30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM A CUCHLINSKI JR can be reached on (703)308-3873. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
MD

  
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